

Code) whether or not qualified military service.  
such suspension shall not be taken into account for purposes of  
section

72(n) 401(a) or 4975(d)(1).

"(5) QUALIFIED MILITARY SERVICE.—For purposes  
of this  
subsection, the term qualified military service  
means any service  
in the uniformed services (as defined in  
chapter 43 of  
title 38, United States Code) by any individual if  
such individual  
is entitled to reemployment rights under  
such chapter  
with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of  
this subsection, the term individual account plan means  
any defined  
contribution plan (including any tax-sheltered  
annuity plan  
under section 403(b), any simplified employee  
pension under  
section 408(k), any qualified salary reduction  
arrangement  
under section 408(p), and any eligible deferred  
compensation  
plan (as defined in section 457(b)).

"(7) COMPENSATION.—For purposes of sections  
403(b)(3),  
415(c)(3), and 457(e)(5), an employee who is in  
qualified military  
service shall be treated as receiving compensation  
from the  
employer during such period of qualified  
military service  
equal to—

"(A) the compensation the employee  
would have  
received during such period if the employee  
were not in  
qualified military service, determined based  
on the rate  
of pay the employee would have received from  
the employer  
but for absence during the period of qualified  
military  
service, or

"(B) if the compensation the employee  
would have  
received during such period was not  
reasonably certain,  
the employee's average compensation from the  
employer  
during the 12-month period immediately  
preceding the  
qualified military service (or, if shorter, the  
period of  
employment immediately preceding the  
qualified military  
service).

"(8) USERRA REQUIREMENTS FOR QUALIFIED  
RETIREMENT  
PLANS.—For purposes of this subchapter and  
section 457, an  
employer sponsoring a retirement plan shall  
be treated as  
meeting the requirements of chapter 43 of title

38. United

States Code, only if each of the following requirements is met:

"(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

"(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

"(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the